THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.928 of 2007

Dated:26.02.2007

Between:

Vaka Kutumba Rao.

…Petitioner

and

The District Collector and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.928 of 2007

ORDER:

The petitioner is allegedly in occupation and enjoyment of land admeasuring Acs.2.00 in R.S.No.360 (old) corresponding to R.S.No.393 (new) of Guduru Village and Mandal in Krishna District. He claims that his family has title over the land for more than 100 years, and in a family partition that took place on 10.09.1954 the subject land fell to the share of the petitioner. It is alleged that having come to know that there is a move to take possession of the land under Integrated Novel Development in Rural Areas and Model Municipal Areas (INDIRAMMA) programme, the petitioner made a representation on 29.05.2006 to the second respondent requesting not to take possession. Nonetheless, on 08.01.2007 the subordinate Officials of the respondents came to the subject land and tried to take measurements. It is also further alleged that the respondents are taking steps to dispossess the petitioner without due process of law. In this background, the petitioner seeks a writ of mandamus directing the respondents to drop all further proceedings.

This Court while ordering notice before admission ordered *status quo*. The respondents moved W.V.M.P.No.404 of 2007 for vacating the interim order. The Mandal Revenue Officer filed a counter affidavit along with the said application. In the counter affidavit it is alleged that

the land admeasuring Acs.260.00 in R.S.No.393 is classified in the Village accounts as village poramboke. A large extent of this land is covered by Guduru Village, and a portion thereof is covered by occupations by various ryots for various purposes. The petitioner, as per village accounts, occupied Ac.0.73 cents in R.S.No.393 and is not in possession of Acs.2.00, as alleged. There is no encroachment in Faslies 1415 and 1416, and hence layout was prepared as there is a need to provide house sites to 200 eligible persons. The counter affidavit denies all other allegations. It is stated that the representation made by the petitioner on 29.05.2006 has been disposed of on 15.06.2006 as the petitioner is not eligible for assignment.

After hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (Assignment), who adhere to their position in the pleadings, this Court is convinced that though the petitioner is in possession of Village site poramboke, no notice has been issued to the petitioner for eviction. Though stray averments are made in the counter affidavit with regard to actual possession by the petitioner, the same is not specifically denied. Therefore, if the petitioner is in possession of the land, as alleged, respondents shall take necessary action after giving notice, and evict him. Unless this exercise is done, the petitioner's possession – if he is in possession – cannot be disturbed.

The Writ Petition is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

26.02.2007
vs